

Abbreviated Administrative Rules Process for DLEG Agencies (12/18/2006)

Request for Rulemaking (RFR)	Agency <ul style="list-style-type: none"> • Agency decides that rulemaking is either statutorily mandated or permissible, and is needed to clarify or further develop statutory requirements under authority granted by the legislature. • Agency rules coordinator obtains agency approval to move ahead with rules, and forwards RFR to DLEG RAO (Regulatory Affairs Officer.) 	RAO <ul style="list-style-type: none"> • Requests to commence rulemaking can come from <u>professional boards/commissions</u>, the department, or the public. The RAO sends an RFR electronically to SOAHR. • SOAHR reviews for legal authority or asks for more information, and approves.
Pre-Hearing Draft Rules	<ul style="list-style-type: none"> • Agency develops revised or new rule language in consultation with stakeholders. <ul style="list-style-type: none"> ○ Some agencies have advisory groups or boards and commissions to assist with the process. Other agencies must obtain commission approval to proceed. • Prepares in strike and bold format for executive office approval. • Agency completes the RIS (Regulatory Impact Statement) and RPA (Rulemaking Policy Analysis) during this time as well. • Forwards documents to the RAO. 	<ul style="list-style-type: none"> • Board/commission (and department) approves the draft; Regulatory Affairs Officer (RAO) of department or agency approves the draft. • SOAHR approves (authority/policy) and sends to LSB. • LSB edits and returns to SOAHR; SOAHR returns to department/agency for correction.

Public Hearing

- LSB (Legislative Service Bureau) and SOAHR (State Office of Administrative Hearings and Rules) review draft language, RIS and RPA for legal concerns and consumer issues.
 - When edits are received by RAO, they are reviewed and sent back to agency for updating.
 - Public hearing must be held for most rules (see rules manual for exceptions).
 - This can be scheduled by the agency at least 28 days after submission of the RIS by the RAO to SOAHR.
 - A notice must be published before the hearing in the Michigan Register, and from 10 to 60 days prior in 3 newspaper ads.
 - The agency will contact newspapers for publication. RAO will contact SOAHR for publication in the Michigan Register.
 - The agency conducts the public hearing and accepts written comments during a time designated by the agency.
 - The public hearing is recorded by electronic means or by court recorder, or in minutes recorded by a designated person.
- Regulatory Impact Statement (the “why” and “\$” document) is approved by the RAO and sent to SOAHR for review and approval.
 - Rulemaking Policy Analysis Form is sent to SOAHR.
 - Public hearing notice is sent by RAO to SOAHR.
 - Newspaper ads (hearing notice secured by RAO).
 - *Michigan Register* (SOAHR publishes notice).
 - Court reporter (secured by RAO or Agency).
 - Public comment period beyond hearing noted.

Post-Hearing Draft Rules	<ul style="list-style-type: none"> • The agency prepares a report to JCAR (Joint Committee on Administrative Rules) and finalizes the rules, based upon the outcome of the public hearing. • The only changes permissible in the rules are those that were addressed in the public hearing, or technical corrections that do not substantially affect the intent and purpose of the rules. • If substantial changes are made, another public hearing must be held to ensure sufficient public consideration. 	<ul style="list-style-type: none"> • Board/commission (and department) approves rules. • LSB edits and has 21 days to certify for form. • SOAHR legally certifies (and can also certify for form if LSB did not complete the task in 21 days).
Joint Committee on Administrative Rules (JCAR)	<ul style="list-style-type: none"> • Agency submits report to RAO • RAO reviews for DLEG policy issues, forwards to SOAHR. • SOAHR obtains LSB final certification • SOAHR prepares legal certification • SOAHR ensures timely filing of JCAR report to legislature. • 15 legislative session days must pass. 	<ul style="list-style-type: none"> • The rules must be submitted to JCAR within one year from the hearing. • JCAR Agency Report summarizes changes made after the hearing. • JCAR has 15 session days to meet and object.
Department/Agency Adopts the Rules	<ul style="list-style-type: none"> • Some agencies wait until the JCAR days have passed, but the adoption certificate may be signed before the 15 session days pass. The rules still do not become effective until SOAHR files them with the Office of the Great Seal. 	<ul style="list-style-type: none"> • Department director adopts rules; or, the agency or commission adopts if it is a Type I agency/commission. • Rules filed by SOAHR with Great Seal after JCAR clock expires, unless JCAR files a notice of objection, which gives them 15 more session days to pass rules-stopping legislation and present it to the Governor. • Rules become effective immediately upon filing or at a later date specified in the rules [MCL 24.245a(2)-(5)].

